

**STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS**

**FOR THE COMMISSIONER OF LABOR AND INDUSTRY**

In the Matter of Residential Home  
Builders, Inc.

**FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION**

This matter was heard by Administrative Law Judge (ALJ) Richard C. Luis on May 7, 2007 at the Office of Administrative Hearings in Minneapolis.

Christopher M. Kaisershot, Assistant Attorney General, 1200 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2130 appeared on behalf of the Minnesota Department of Labor and Industry ("Department"). There was no appearance by or on behalf of the Respondent, Residential Home Builders, Inc. The hearing record closed on May 7, 2007.

**STATEMENT OF ISSUE**

Whether disciplinary action should be taken against the Respondent for violation of Minn. Stat. §§ 45.027, subds. 1a, 7(a)3 and 7(a)4, and 326.91, subds. 1(4), 1(5) and 1(6) because the Respondent or its qualifying person, Justin Mattson, displayed incompetence, untrustworthiness and financial irresponsibility by failing to satisfy six judgments, for performing negligently or in breach of contract when it constructed a septic system for Jennifer McGill, and for failure to respond to the Department's information requests.

Based on the proceedings herein, the Administrative Law Judge makes the following:

**FINDINGS OF FACT**

1. On March 29, 2007, a Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show Cause and Statement of Charges was mailed to the Respondent's qualifying person, Justin K. Mattson, at two addresses – (1) 17901 130th Avenue NW, Milaca, MN 56353, and (2) 2133 N. Ferry Street, Anoka, MN 55303. The correspondence mailed to the Anoka address was returned to the Office of Attorney General, with a notation: "Unable to Forward – Return to Sender No Forwarding Address". The mailing to the Milaca address was not returned. The Notice scheduled a Prehearing Conference for May 7, 2007.

2. The Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show Cause and Statement of Charges contains the following language, on page 6:

1. Respondent's failure to appear at the prehearing conference, settlement conference, or the hearing, or failure to comply with any order of the Administrative Law Judge, may result in a finding that Respondent is in default, that the Department's allegations contained in the Statement of Charges may be accepted as true, and that Respondent may be subject to discipline by the Commissioner, including revocation, suspension, censure, or the imposition of civil penalties.

3. Neither the Respondent nor its qualifying person appeared at the Prehearing Conference on May 7, 2007. The Respondent did not contact the Department, the Office of Administrative Hearings or the Administrative Law Judge to request a continuance. No notice of appearance was filed by the Respondent.

4. The allegations as set forth in the Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show Cause and Statement of Charges are deemed proved and are incorporated into these Findings by reference.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Administrative Law Judge and the Commissioner of Labor and Industry have jurisdiction pursuant to Minn. Stat. §§ 14.50, 45.027, subds. 6 and 7 and 326.91, subd. 1.

2. The Respondent and its qualifying person were given timely and proper notice of the Prehearing Conference in this matter, and the Department has complied with all procedural requirements.

3. Under Minn. R. 1400.6000, the Respondent is in default as a result of its failure to appear at the scheduled Prehearing Conference.

4. Under Minn. R. 1400.6000, when a party defaults, the allegations and issues set out in the Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show Cause and Statement of Charges may be taken as true and deemed proved. The Administrative Law Judge therefore takes those allegations and issues as true, and they are deemed proved.

5. Based on the facts set out in the Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show Cause and Statement of

Charges, the Respondent has violated Minn. Stat. §§ 45.027, subds. 1a, 7(a)(3) and 7(a)(4), and 326.91, subds. 1(4), 1(5) and 1(6) by demonstrating incompetence, untrustworthiness, and financial irresponsibility by failing to satisfy at least six judgments (possibly seven), by performing negligently or in breach of contract when it constructed a septic system for Jennifer McGill, and for failing to respond to the Department's information requests. As a result, the Respondent is subject to discipline by the Minnesota Department of Labor and Industry.

6. An Order by the Commissioner of Labor and Industry imposing disciplinary action against the Respondent is in the public interest within the meaning of Minn. Stat. §§ 45.027, subd. 7(a)(1) and 326.91, subd. 1.

Based on the Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS RECOMMENDED that appropriate disciplinary action be taken against the Residential Building Contractor's License of Residential Home Builders, Inc., and/or its qualifying person, Justin K. Mattson.

Dated this 5th day of June, 2007

/s/ Richard C. Luis  
RICHARD C. LUIS  
Administrative Law Judge

Reported: Default

### **NOTICE**

This report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Scott Brener, Commissioner, ATTN: Nancy Leppink, Director Legal Services, Minnesota Department of Labor and Industry, 443 Lafayette Road, St. Paul, MN 55155 to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under

Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

**R. C. L.**